

Authority: 33 U.S.C. 1321(c)(2); 42 U.S.C. 9601-9657; E.O. 12777, 56 FR 54757, 3 CFR, 1991 Comp. p. 351; E.O. 12580, 52 FR 2923, 3 CFR, 1987 Comp. p. 193.

Appendix B—[Amended]

2. Table 1 of Appendix B to part 300 is amended by removing the site "Brown Wood Preserving Site, Live Oak, Florida".

[FR Doc. 95-23321 Filed 9-21-95; 8:45 am]

BILLING CODE 6560-50-P

40 CFR Part 763

[OPPTS-62091A; FRL-4976-4]

Asbestos-Containing Materials in Schools; State Request for Waiver From Requirements; Final Decision

AGENCY: Environmental Protection Agency (EPA).

ACTION: Final decision on requested waiver.

SUMMARY: EPA is issuing a final decision which approves the request of Utah for a waiver from the requirements of 40 CFR part 763, subpart E, Asbestos-Containing Materials in Schools.

ADDRESSES: A copy of the complete waiver application submitted by the State is available from the TSCA Nonconfidential Information Center, TSCA Docket Receipt (7404), Office of Pollution Prevention and Toxics, Rm. NE-B607, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460. A copy is also on file and may be reviewed at the EPA Region 8 office in Denver, Colorado: EPA, Region 8 (8ART-RTI), 999 18th St., Denver, CO, 80202-2466.

FOR FURTHER INFORMATION CONTACT: Susan B. Hazen, Director, Environmental Assistance Division (7408), Office of Pollution Prevention and Toxics, Rm. E-543B, Environmental Protection Agency, 401 M St., SW., Washington, DC 20460, (202) 554-1404, TDD: (202) 554-0551, e-mail: TSCA-Hotline@epamail.epa.gov.

SUPPLEMENTARY INFORMATION: This action is issued under the authority of Title II of the Toxic Substances Control Act (TSCA), 15 U.S.C. 2641, *et seq.* TSCA Title II was enacted as part of the Asbestos Hazard Emergency Response Act (AHERA), Pub. L. 99519. AHERA is the abbreviation commonly used to refer to the statutory authority for EPA's rules affecting asbestos in schools and will be used in this document. EPA issued a final rule in the Federal Register of October 30, 1987 (52 FR 41846), the "Asbestos-Containing Materials in Schools Rule" (the Schools Rule, 40

CFR part 763, subpart E), which requires all Local Education Agencies (LEAs) to identify asbestos-containing building materials (ACBMs) in their school buildings and to take appropriate actions to control the release of asbestos fibers.

Under section 203 of AHERA, EPA may, upon request by a State Governor and after notice and comment and opportunity for a public hearing in the State, waive in whole or part the requirements of the Schools Rule, if the State has established and is implementing or intends to implement an ongoing program of asbestos inspection and management which is at least as stringent as the requirements of the rule. 40 CFR 763.98 sets forth the procedures to implement this statutory provision. The Schools Rule requires that specific information be included in the waiver request submitted to EPA, establishes a process for reviewing waiver requests, and sets forth procedures for oversight and rescission of waivers granted to States. The Agency encourages States to establish and manage their own school regulatory programs under the AHERA waiver program.

EPA issued a notice in the Federal Register of July 17, 1990 (55 FR 29069), which announced the receipt of a waiver request from the State of Utah, and solicited comments from the public. The notice also discussed the program elements of the State program.

No comments were received during the 60-day comment period. No request for a public hearing was received.

EPA is required to issue a notice in the Federal Register announcing its decision to grant or deny a request for waiver within 30 days after the close of the comment period. The comment period for this docket closed on September 17, 1990. The 30-day review period may be extended if mutually agreed upon by EPA and the State. EPA and Utah mutually agreed to extend the review period.

The remainder of this document is divided into two units. The first unit discusses the Utah program and sets forth the reasons and rationale for EPA's decision on the State's waiver request. Unit I. is subdivided into two sections. Section A discusses key elements of the State's program. Section B gives EPA's final approval of the waiver. The second unit of this document discusses statutory requirements of the Paperwork Reduction Act.

I. The Utah Program

A. Program Elements

The Utah Air Conservation Act, Title 26, Chapter 13 and implementing regulations (section 8, Utah Air Conservation Regulations) give the Utah Department of Environmental Quality (UDEQ) the authority to regulate asbestos in schools and commercial buildings. The State's regulations adopt by reference the AHERA regulations at 40 CFR part 763, subpart E effective when an AHERA waiver is approved by EPA. The State has the enforcement mechanism to allow it to implement the program. The State has EPA-approved Neutral Administrative Inspection Scheme (NAIS), logging system for tracking tips, complaints, etc., and an enforcement response policy in place. The State has qualified personnel to carry out the provision relating to the waiver. The program will be administered by the UDEQ, Bureau of Air Quality.

Since the State application for a waiver was received, EPA published a revision to its Asbestos Model Accreditation Plan (MAP). The Asbestos Model Accreditation Plan; Interim Final Rule was published on February 3, 1994 (59 FR 5236). This MAP required that each State adopt an accreditation plan that is at least as stringent as this MAP within 180 days after the commencement of the first regular session of the legislature of the State that is convened on or after April 4, 1994. The UDEQ submitted copies of the State's revised regulations. However, the State's regulations are not final at this time. Utah's revised regulations meet the requirements of the new MAP.

B. EPA's Decision on Utah's Request for Waiver

EPA grants the State of Utah a partial waiver from the requirements of 40 CFR part 763, subpart E, effective 30 days after publication of this Final Decision. This waiver includes all AHERA requirements except the MAP. EPA will amend the AHERA waiver to include the MAP when the State's MAP regulations become final. Federal jurisdiction shall be in effect in the period between the date of publication of this document and the effective date. This will assure that the State has sufficient time to prepare to assume its new responsibilities. It will also assure the public that no gap in authority occurs, and gives the public sufficient notice of the transfer of duties from EPA to the State of Utah. This waiver is applicable to all schools and public and commercial buildings covered by AHERA in the State and is subject to

rescission under 40 CFR 763.98(j) based on periodic EPA oversight evaluation and conference with the State in accordance with 40 CFR 763.98(h) and 763.98(i).

II. Other Statutory Requirements

The reporting and recordkeeping provisions relating to State waivers from the requirements of the Asbestos-Containing Materials in Schools Rule (40 CFR part 763) have been approved by the Office of Management and Budget (OMB) under the Paperwork Reduction Act and have been assigned OMB control number 2070-0091.

List of Subjects in 40 CFR Part 763

Environmental protection, Asbestos, Asbestos in schools (AHERA), Hazardous substances, Reporting and recordkeeping requirements, State and local governments, Worker protection.

Dated: September 6, 1995.

Robert L. Duprey,

Acting Regional Administrator, Region 8.

[FR Doc. 95-23569 Filed 9-21-95; 8:45 am]

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FEDERAL COMMUNICATIONS COMMISSION

47 CFR Part 64

[CC Docket No. 91-35; FCC 95-374]

Operator Service Access and Payphone Compensation

AGENCY: Federal Communications Commission.

ACTION: Final rule.

SUMMARY: On April 9, 1992, the Commission adopted a *Second Report and Order* prescribing an interim mechanism by which competitive payphone owners ("PPOs") may collect compensation from certain interexchange carriers ("IXCs") for originating interstate access code calls from their payphones. In the *Memorandum Opinion and Order on Reconsideration*, adopted August 17, 1993, the Commission substantially affirmed the *Second Report and Order*, although the Commission modified it in certain respects. Upon further reconsideration the Commission now affirms the *Reconsideration Order*, making one additional modification and a clarification with the intended effect of facilitating the payment of compensation by IXCs to PPOs. First, the Commission directs each PPO submitting an affidavit as verification of a compensation claim to include evidence that the particular payphone is

owned by the PPO seeking compensation, and that the payphone was in working order during the period in question. Second, the Commission clarifies that IXCs to which the customer-owned coin-operated telephone ("COCOT") lists are provided must pay local exchange carriers ("LECs") reasonable charges for the costs of generating those lists. Third, the Commission rejects RCI's request that we exempt from compensation obligations those IXCs whose operator services consist of 1-800 and 950-10XX access code calls to preexisting accounts. The Commission also rejects RCI's request that we allow OSPs to remove themselves from the payphone compensation list at any time. Fourth, the Commission reverses our previous decision denying Allnet's request to be removed from the list of OSPs with payphone compensation obligations on the grounds that it is not a provider of "operator services," a defined by the Telephone Operator Consumer Services Improvement Act.

EFFECTIVE DATE: October 23, 1995.

FOR FURTHER INFORMATION CONTACT:

Michael Carowitz, 202-418-0960, Enforcement Division, Common Carrier Bureau.

SUPPLEMENTARY INFORMATION:

Synopsis of Order

A. Affidavit Procedure for Payphones Not Appearing on COCOT Lists

Upon reconsideration of the requirement that PPOs must submit sufficient verification information to IXCs when their payphones do not appear on COCOT lists, the Commission affirms its conclusion that the affidavit procedure the Commission established in the *Reconsideration Order*, 58 FR 57748 (1993), provides PPOs a "last resort" procedure when other procedures and informal negotiations fail to resolve LEC COCOT list problems. The Commission further concludes, however, that additional information would assist the IXCs in verifying their compensation obligations for competitive payphones not appearing on LEC COCOT lists. Accordingly, the Commission directs each PPO submitting an affidavit to include evidence that a particular payphone is owned by the PPO seeking compensation, and that the payphone was in working order during the period in question. Such evidence of the payphone's operability should include, at a minimum, the telephone bill for the last month of the billing quarter indicating use of a line screening service. The Commission believes that

the inclusion of such evidence will serve the interest of all parties by allowing IXCs to pay legitimate claims more quickly. The Commission also believes that the potentially significant penalties for the submission of fraudulent affidavits will continue to protect the IXCs against the misuse claims if good-faith negotiations between the relevant parties fail to resolve the dispute.

B. LEC Recovery of the Costs of Producing the COCOT Lists

The Commission articulates with more specificity what it held in the *Reconsideration Order*: that LECs may recover their reasonable costs in generating and producing the COCOT lists through direct charges to the IXCs that use them. The COCOT lists are produced exclusively to assist the IXCs in verifying their compensation obligations to PPOs. Because the COCOT lists are produced to assist the IXCs pursuant to FCC rules and are not included in state-tariffed payphone service, the Commission rejects MCI's argument that the lists are generated "as a by-product of the provision of LEC payphone service to PPOs." Even if the IXCs choose not to receive the COCOT lists, they are still responsible for compensating PPOs for each eligible competitive payphone in the amount of \$6 per month. In sum, the LEC COCOT lists are provided for the convenience of the IXCs, who, if requested, must pay the LECs a reasonable charge.

C. Certification Issues Raised by RCI's Petition for Clarification

Although it styles its pleading as a petition for clarification, RCI in effect requests reconsideration of the Commission's holding in both the *Second Report and Order*, 57 FR 21038 (1992), and the *Reconsideration Order*. As such, the Commission declines to adopt RCI's proposal for either expanding the scope of the exemption from the obligation to pay compensation to PPOs or modifying the terms of the affidavit procedure. The exemption from the compensation obligation is intended to apply to carriers that receive access code calls from their own presubscribed lines because such carriers already pay a commission to the PPO for such calls. The Commission emphasized that "if the carrier receives any user-initiated access code calls from payphones on which it is not the presubscribed carrier, that carrier [will] be required to participate in the compensation mechanism." RCI proposes to expand this exemption significantly to include access code calls from non-presubscribed lines for which